

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

IN RE PORK ANTITRUST LITIGATION

Case No. 19-cv-1578 (JRT/HB)

Master Case No. 0:18-cv-01776-JRT-HB

This Document Relates To:

WINN-DIXIE STORES, INC., *et. al.*, v.
AGRI STATS, INC., *et al.*;
Case No. 19-cv-1578 (JRT/HB)

**THE WINN-DIXIE PLAINTIFFS’ OMNIBUS OPPOSITION TO DEFENDANTS’
INDIVIDUAL MOTIONS TO DISMISS AND NOTICE OF JOINDER**

Now come Winn-Dixie Stores, Inc. and Bi-Lo Holdings, LLC (the “Winn-Dixie Plaintiffs” or “Plaintiffs”), by and through their attorneys, and for their Omnibus Opposition To Defendants’ Individual Motions To Dismiss And Notice Of Joinder, the Plaintiffs respectfully state as follows:

1. On January 15, 2020, the Defendants filed their individual motions to dismiss the Winn-Dixie Plaintiffs Second Amended Complaint. *See* Dkt Nos. 102 (Clemens Defendants), 105 (Hormel Defendants), 108 (Defendant Indiana Packers), 111 (JBS USA Food Company), 114 (Seaboard Defendants), 117 (Defendant Smithfield Foods), 120 (Triumph Foods), 122 (Tyson Defendants) and 125 (Agri Stats).

2. In support of their respective individual Motions to Dismiss the Winn-Dixie Plaintiffs’ Second Amended Complaint, and in order to avoid burdening the court with duplicative briefing and/or to promote judicial economy, the Defendants each attached and

incorporated by reference their individual Memoranda of Law in support of their respective motions to dismiss the class action complaints filed in *In re Pork Antitrust Litigation*, 0:18-cv-01776-JRT-HB. *See* Defendants' respective Memoranda of Law at Dkt. Nos. 103 (Clemens Defendants), 106 (Hormel Defendants), 109 (Defendant Indiana Packers), 112 (JBS USA Food Company), 115 (Seaboard Defendants), 118 (Defendant Smithfield Foods), 121 (Triumph Foods), 123 (Tyson Defendants) and 126 (Agri Stats) (each indicating that to avoid burdening the court with duplicative briefing, each defendant was incorporating by reference the arguments from their respective legal memoranda in support of the motions to dismiss the class action complaints.)

3. On February 21, 2020, the Class Plaintiffs jointly filed Plaintiffs' Omnibus Opposition To Defendants' Individual Motions To Dismiss. *See* Dkt. No. 479 in *In Re Pork Antitrust Litigation*, case no. 18-cv-1776 (JRT/HB).

4. In accordance with the Court's Order of February 19, 2020 (Dkt. No. 141), and to avoid burdening the Court with duplicative briefing responding to the Defendants' Individual Motions to Dismiss, the Winn-Dixie Plaintiffs hereby join in and incorporate by reference the Class Plaintiffs' Omnibus Opposition To Defendants' Individual Motions To Dismiss as if same were fully state herein.

5. For completeness of the record, and as directed by the Court, the Winn-Dixie Plaintiffs have filed a copy of the Class Plaintiffs' Omnibus Opposition To Defendants' Individual Motions To Dismiss that the Winn-Dixie Plaintiffs are joining as Exhibit 2 to the Declaration of Patrick J. Ahern filed concurrently with this response (the "Ahern Declaration").

6. For the convenience of the Court and to alleviate the Court's burden in reviewing and deciding the Defendants' Joint Motion to Dismiss, the Winn-Dixie Plaintiffs have prepared and filed a chart that cross-references all citations to the Class Action Complaints referenced in the Omnibus Opposition To Defendants' Individual Motions To Dismiss to the same or similar allegations contained in the Winn-Dixie Plaintiffs' Second Amended Complaint.¹ See chart attached at Exhibit 4 of the Ahern Declaration.

WHEREFORE, the Defendants Joint Motion to Dismiss the Winn-Dixie Plaintiffs' Second Amended Complaint should be denied for all the same reasons stated in the Class Plaintiffs' Omnibus Opposition To Defendants' Individual Motions To Dismiss, which the Winn-Dixie Plaintiffs have joined and incorporated herein by reference.

Respectfully submitted,

Dated: February 26, 2020

/s/ Patrick J. Ahern

Patrick J. Ahern (admitted *pro hac vice*)

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¹ The Winn-Dixie Plaintiffs do not have access to the sealed version of the Indirect Purchaser Plaintiffs' ("IPP") Second Amended Class Action Complaint, so the Winn-Dixie Plaintiffs' referenced comparison chart only includes the publicly available allegations from the IPP Complaint.